

Maine Revised Statutes
Title 10: COMMERCE AND TRADE
Chapter 110: FINANCE AUTHORITY OF MAINE

§1044. ISSUANCE OF REVENUE OBLIGATION SECURITIES

1. Notice of intent to issue bonds; actions to contest validity. The authority may provide, at one time or from time to time, for the issuance of revenue obligation securities of the authority for the purposes authorized in this chapter. No revenue obligation securities of the authority may be issued until:

A. A certificate of approval, as provided in section 1043, has been issued; and [1985, c. 344, §64 (AMD).]

B. [1985, c. 344, §64 (RP).]

C. A notice of the intent of the authority to issue the securities is published at least once in the state newspaper and in a newspaper of general circulation in the municipality in which the project is to be located:

- (1) No later than 14 full days after the date on which the certificate is issued;
- (2) Describing the general purpose or purposes for which the securities are to be issued;
- (3) Stating the maximum principal amount of the proposed securities;
- (4) Setting forth or summarizing the text of the certificate of approval; and
- (5) Including a statement as to the time within which any petition to contest the issuance of the securities or to set aside or otherwise obtain relief on the grounds of invalidity of the certificate of approval must be commenced. [1985, c. 344, §64 (AMD).]

Any action or proceeding in any court to contest the issuance of the securities, to set aside a certificate of approval or to obtain relief upon the grounds that the certificate of approval was improperly issued, was issued for unauthorized purposes, or is otherwise invalid for any reason, must be started within 30 days after the date of the publication required by paragraph C and otherwise shall be governed by Title 5, chapter 375, subchapter VII. Notwithstanding the provisions of section 969-A, subsection 11 and Title 5, chapter 375, subchapter VII, including, but not limited to, Title 5, sections 11002 and 11003, any such action or proceeding must be commenced only by first serving the petition for review upon the authority, in hand, within that 30-day period. For the purposes of this subchapter and the Maine Administrative Procedure Act, Title 5, chapter 375, the later date of newspaper publication required by paragraph C shall constitute the final agency action with respect to the certificate of approval and the issuance of the securities. After the expiration of the 30-day period of limitation, no right of action or defense founded upon the invalidity of the approval or contesting any provision or the issuance of the certificate of approval or the issuance of the securities may be started or asserted nor may the certificate of approval or the issuance of the securities be open to question in any court upon any grounds.

[1989, c. 765, §2 (AMD).]

2. Treasurer of State as agent. The Treasurer of State shall at the direction of the authority, act as the authority's agent for the sale and delivery of revenue obligation securities and anticipatory notes. The Treasurer of State shall assist the authority in the preparation, issuance, negotiation and sale of the securities and notes and provide reasonable advice and management assistance. The authority may employ further counsel or assistants or act in its own behalf, provided that the sale and delivery of revenue obligation securities and anticipatory notes shall be carried out at the authority's direction with and through the Treasurer of State.

[1981, c. 476, §2 (NEW).]

3. Resolution.

[1985, c. 344, §65 (RP) .]

4. Conclusive authorization. All revenue obligation securities of the authority shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the authority.

[1985, c. 344, §66 (AMD) .]

5. Maturity; interest. The securities of each issue of revenue obligation securities shall be dated, shall mature at a time or times not exceeding 30 years from their date and shall bear interest at a rate or rates determined by the authority. At the option of the authority, the securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to their issuance.

[1981, c. 476, §2 (NEW) .]

6. Form. The authority shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities and the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Revenue obligation securities shall be executed in the name of the authority by the manual or facsimile signature of the authorized official or officials. Any attached coupons shall be executed with the manual or facsimile signature of the authorized official or officials. Signatures and facsimiles of signatures on securities and coupons will be valid for all purposes even if the authorized official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form or both as the authority may determine. Provision may be made for the registration of any coupon securities as to principal alone and as to both principal and interest, and for the reconversion into coupon securities of any securities registered as to both principal and interest. In addition to this subsection, the authority may provide for transfer of registration of its registered revenue obligation securities by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest on those registered securities shall be payable to the registered owner shown in the book entry, his legal representatives, successors or transferees.

[1985, c. 344, §67 (AMD) .]

7. Sale. The authority may sell the securities at a public or private sale, in a manner and at a price it determines is in the best interest of the authority. The authority shall not sell the securities to any firm, partnership, corporation or association, including an affiliate or subsidiary, which is a party to any contract pertaining to the financed project or which is to rent, purchase, lease or otherwise occupy premises constituting part of the project. The authority may sell its securities to a seller of the project if the project is to be used and operated by a 3rd party.

[1981, c. 476, §2 (NEW) .]

8. Proceeds. The proceeds of each issue shall be used solely for the authorized purposes and shall be disbursed as provided in the securing trust agreement or other document. Administration costs incurred by the authority under this program may be drawn from those proceeds. If the proceeds are less than the cost of the project, by error in the estimate or otherwise, additional securities may be issued in a like manner to provide the amount of the deficit and, unless otherwise provided in the securing trust agreement or such other document and without again carrying out the procedures set forth in section 1043, the additional securities are deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the securities first issued for the same purpose. The authority may place limits or restrictions on the issuance of additional revenue obligation securities through the securing trust agreement or other document. The authority may provide for the replacement of mutilated, destroyed or lost securities. Revenue obligation

securities may be issued under this subchapter without obtaining the consent of any department, division, commission, board, bureau or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this subchapter. Notwithstanding any of the other provisions of this subchapter, or of any recitals in any securities issued under this subchapter, all such securities are deemed to be negotiable instruments issued under the laws of this State.

[1985, c. 344, §68 (AMD) .]

9. Credit not pledged. Except as provided in this subsection, securities issued under this subchapter do not constitute any debt or liability of the State or of any municipality therein or any political subdivision thereof, or of the authority or a pledge of the faith and credit of the State or of any such municipality or political subdivision, but are payable solely from the revenues of the project or projects for which they are issued or from other eligible collateral or the revenues or proceeds of other eligible collateral pledged to the payment of the revenue obligation securities and all such securities must contain on their face a statement to that effect. The issuance of securities under this subchapter does not directly or indirectly or contingently obligate the State or any municipality or political subdivision to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Under subchapter 2, the authority may insure loans made with the proceeds of revenue obligation securities. To these ends, the faith and credit of the State may be pledged, under and consistent with the terms and limitations of the Constitution of Maine, Article IX, Section 14-A or 14-D, and such further limitations, if any, as may be provided by statute.

[2003, c. 537, §49 (AMD); 2003, c. 537, §53 (AFF) .]

10. Anticipatory borrowing. In anticipation of the sale of securities under this subchapter, the authority may issue temporary notes and renewal notes, the total face amount of which does not exceed at any one time outstanding the authorized amount of the securities. The period of such anticipatory borrowing shall not exceed 3 years and the time within which the securities are to become due shall not be extended by the anticipatory borrowing beyond the term permitted by law.

[1985, c. 344, §70 (AMD) .]

11. Environmental protection. For all revenue obligation securities in excess of \$1,000,000 and in other instances when the authority determines it is appropriate, the authority shall obtain a written assessment from the Department of Environmental Protection of the environmental conditions known by the department to exist at a project location so that the authority fully considers environmental risks when making its decisions. Environmental conditions posing risks that must be considered include, but are not limited to, licensing obligations, existing or historic regulatory noncompliance and site clean-up responsibilities.

[2003, c. 537, §53 (AFF); 2003, c. 537, §50 (RPR) .]

12. Energy facilities. In the case of an energy generating system, an energy distribution system or an industrial-commercial project, any of which includes hydroelectric facilities:

A. Revenue obligation securities of the authority shall not be issued until the Public Utilities Commission has certified that all licenses required by that commission with respect to the project have been issued or that none are required; and [1985, c. 344, §71 (NEW) .]

B. Revenue obligation securities of the authority shall not be issued until the Director of Energy Resources has reviewed and commented upon the project proposal. The director shall make his comments within 30 days after receipt of a notification and copy of the project proposal from the authority. The authority shall take the comments into consideration in its processing of the project. [1985, c. 344, §71 (NEW) .]

[1985, c. 714, §32 (AMD) .]

13. Limitation. The authority may not issue revenue obligation securities for energy distribution system projects unless the authority issued a certificate of approval for the energy distribution system project before January 1, 2018. Notwithstanding this subsection, revenue refunding securities may be issued to refund any outstanding revenue obligation securities.

[2011, c. 586, §4 (NEW) .]

SECTION HISTORY

1981, c. 476, §2 (NEW). 1981, c. 698, §§65,66 (AMD). 1983, c. 519, §15 (AMD). 1985, c. 344, §§64-71 (AMD). 1985, c. 714, §§30-32 (AMD). 1989, c. 765, §2 (AMD). 2003, c. 537, §§49,50 (AMD). 2003, c. 537, §53 (AFF). 2011, c. 586, §4 (AMD).

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